

the provisions governing torts, if the infringer is at fault.

In the cases set out in the first and second paragraphs, the infringed person may, apart from the damages, also claim the profits gained by the infringing party. In such case, any sum demanded in accordance with Article 68 shall be deducted from this amount.

B. CRIMINAL ACTIONS

I. Offenses

(1) Infringement of Moral, Economic or Related Rights

Art. 71. (Amendment: 23.01.2008-5728/138)

Any person who, by infringing the moral, economic and related rights regarding intellectual and artistic works protected under this Law;

1. adapts, performs, reproduces, changes, distributes, communicates to the public by devices enabling the transmission of signs, sounds or images or publishes a work, performance, phonogram or production without written permission of right holders or puts up for sale, sells, distributes by renting or lending or in any other way, buys for commercial purposes, imports or exports, possesses or stores for non-private use any works adapted or reproduced unlawfully, shall be sentenced to imprisonment from one year to five years or a judicial fine.
2. gives a title to another person's work as his own work shall be sentenced to imprisonment from six months to two years or a judicial fine. Where the offence is committed by distributing or publishing, the upper limit of the penalty of imprisonment shall be five years and no judicial fine may be imposed.
3. cites from a work without referring to the source shall be sentenced to imprisonment from six months to two years or a judicial fine.
4. makes a declaration to the public without permission of the right holders concerning the content of a work which has not yet been made public shall be sentenced to imprisonment up to six months.
5. Gives a reference regarding a work in a wrong, incomplete or misleading way shall be sentenced to imprisonment up to six months.
6. Reproduces, distributes, publishes or broadcasts a work, performance, phonogram or a production by using the name of a well-known other person shall be sentenced to imprisonment from three months to one year or a judicial fine.

Persons who commit the offences mentioned in the first paragraph of the additional article 4 of this Law and content providers who continue to infringe the rights recognized under this Law shall be sentenced to imprisonment from three months to two years unless this act constitutes another crime requiring a greater penalty.

Where any person who puts up for sale, sells or buys a work, performance, phonogram or production which was produced, adapted, reproduced, distributed or broadcasted illegally provides information as to from whom he obtained such item and enables them to be captured before the prosecution process, the penalty to be imposed may be

omitted or reduced.

(2) Preparation Actions Which Aim at Circumventing Protective Programs

Art. 72. (Amendment: 23.01.2008-5728/139)

Any person, who produces, puts up for sale, sells or possesses for non- private use programs and technical equipments which aim to circumvent additional programs developed to prevent illegal reproduction of a computer program shall be sentenced to imprisonment from six months to two years.

(3) Other Offenses

Art. 73. (Revoked: 23.01.2008 - 5728/578)

II. Offender

Art. 74. (Revoked: 23.01.2008 - 5728/578)

III. Prosecution and Recidivism

Art. 75. (Amendment: 23.01.2008-5728/140) The investigation and prosecution of the crimes specified in Articles 71 and 72 shall be subject to complaint. To make the complaint valid, the right holders or the affiliated collecting societies must submit the documents and other evidences proving their rights to the public prosecutor. In case these documents and other evidences are not submitted within the period of complaint, a decision of non-prosecution shall be issued.

The moral and economic right holders shall be informed by the relevant natural or legal persons and especially by the authorized persons of the Ministry of Education and the Ministry of Culture and Tourism to enable them to use their right of complaint due to the crimes whose prosecution and investigation are subject to complaint in accordance with this Law.

Upon the complaint the public prosecutor shall carry out the necessary procedures for confiscation of the property subject to the crime pursuant to Code of Criminal Procedure numbered 5271. Where the public prosecutor considers it necessary he may also decide to stop business activities limited by the production of works alleged to have been produced illegally. However this decision shall be presented to the judge's approval in twenty four hours. A decision which is not approved in twenty four hours by the judge shall be null and void.

C. MISCELLANEOUS PROVISIONS

I. Jurisdiction and Evidence

Art. 76. (Amendment: 23.01.2008-5728/141) Specialized courts to be established by the Ministry of Justice shall be competent for litigations arising from the legal relationships regulated by this Law regardless of the amount in controversy or the punishment prescribed by the Law. Until the specialized courts are established and until they